

Appn. No. 10/723,444  
Amendment dated: December 6, 2004  
Response to Office Action dated September 22, 2004

## REMARKS

These remarks are in response to the Office Action dated September 22, 2004. This reply is timely filed. At the time of the Office Action, claims 1-26 were pending in the application. Claim 20 was objected to because of informalities. Claims 1-2, 6-12 and 14-25 were rejected under 35 U.S.C. 102(e). Claims 3-5, 13 and 26 were rejected under 35 U.S.C. 103(a). The rejections are set out in more detail below.

### I. Brief Review of Applicants' Invention

Prior to addressing the Examiner's rejections, a brief review of Applicants' invention is appropriate. The invention relates to a low cost method and system for monitoring people, such as those persons who are elderly or ill, in the safety and comfort of their own homes using a secure communication link. In particular, the system can monitor at least one behavioral parameter associated with a person, and compare the behavioral parameter to at least one pre-determined rule which is based upon a behavioral profile. The behavioral profile can be, for example, empirically determined based upon the person's behavioral patterns.

The system can include at least one sensing device which monitors the behavioral parameter and generates correlating data. The data can be sent to a server within the person's home, and an exception can be triggered if the behavioral parameter does not match the behavioral profile. The server can forward the exception over the secure communication link to a monitoring system located outside the person's home. At least one action responsive to the exception then can be initiated. For example, a telephone call can be placed to the person's home or an ambulance can be dispatched to the home.

### II. Claim Objections

Claim 20 was objected to because of informalities. The claim has been amended to correct the informalities. Applicants therefore respectfully request that the objection be withdrawn.

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Appn. No. 10/723,444  
Amendment dated: December 6, 2004  
Response to Office Action dated September 22, 2004

### III. Claim Rejections on the Art

Claims 1-2, 6-12 and 14-25 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,398,727 to Bui et al. (hereinafter "Bui"). Claims 3-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bui, as applied to claim 1 above, and further in view of U.S. Patent Application Publication No. 2002/0029203 to Pelland et al. (hereinafter "Pelland"). Claim 13 was rejected under 35 U.S.C. 103(a) as being unpatentable over Bui, as applied to claim 1 above, and further in view of U.S. Patent Application Publication No. 2002/0080034 to Yahalom (hereinafter "Yahalom"). Claim 26 was rejected under 35 U.S.C. 103(a) as being unpatentable over Bui, as applied to claim 15 above, and further in view of U.S. Patent Application Publication No. 2002/0192625 to Mizokawa (hereinafter "Mizokawa").

Claim 1 recites a method for in-home monitoring comprising the step of monitoring at least one behavioral parameter associated with a person. Similarly, claim 15 recites a system comprising at least one sensor for monitoring at least one behavioral parameter associated with a person and generating correlating data. Bui fails to disclose these limitations.

The Examiner has asserted that the recited limitations are disclosed by Bui at col. 6, lines 6-30. However, in lieu of monitoring behavioral parameters, the passages cited by the Examiner disclose physiological sensors which detect data representative of a patient's physiological condition. Importantly, the terms physiological and behavioral are not synonymous. Indeed, the term physiological relates to the biological functions of a living organism. An example of a physiological condition which is measured is blood pressure. In contrast, behavior is the manner in which one behaves or, in other words, their conduct. An example of a behavioral parameter which can be measured by the claimed invention is what time a person enters the kitchen in the morning and how long a person has been in the shower. Accordingly, Bui does not disclose or suggest the recited step of monitoring at least one behavioral parameter associated with a person.

Claim 1 further recites comparing the behavioral parameter to at least one pre-determined rule which is based upon a behavioral profile, and claim 15 recites a software application for performing this step. The Examiner asserts that this step is {00003217;}

Appn. No. 10/723,444  
Amendment dated: December 6, 2004  
Response to Office Action dated September 22, 2004

disclosed in Bui at col. 6, lines 45-47. However, the cited passage pertains to setting a range of values for physiological sensors and causing an alarm signal if a detected value is outside of a range that has been set. There is no teaching or suggestion of comparing a behavioral parameter to a determined rule which is based upon a behavioral profile. As noted in ¶ 42 of Applicant's specification, the behavioral rules can represent any aspect of the a person's behavior, for instance the time the person wakes up each morning, the time the person goes to bed, how frequently the person visits the restroom, etc. Bui does not disclose any such rules which represent aspects of a person's behavior.

Claims 1 and 15 also recite triggering an exception if the behavioral parameter does not match the behavioral profile. Bui also fails to disclose this limitation. Instead, Bui triggers an alarm if a physiological sensor detects a physiological value which falls outside a predetermined range.

Claim 6 depends from claim 1 and further recites that the behavioral parameter is selected from the group consisting of an acoustic signal, a movement of a person, a location of a person, an opening of a window, a closing of a window, an opening of a door, a closing of a door, an activation of an appliance, a deactivation of an appliance, an activation of a light, and a deactivation of a light. The Examiner has asserted that this limitation is disclosed in Bui at col. 6, lines 45-55. However, the recited passage does not disclose any behavioral parameters, and in particular does not disclose monitoring an acoustic signal. Instead, the recited passage discloses an ambulatory patient monitor generating an alarm signal. An alarm signal generated by an ambulatory patient is not a behavioral parameter, and thus Bui also fails to anticipate claim 6.

Claims 7 and 17 recite wirelessly propagating data representing the behavioral parameter from a sensing device to a device interface. The Examiner asserts that this limitation is disclosed in Bui at col. 6, lines 45-55. However, the cited passage discloses not that sensors wirelessly propagate data; but that a monitor to which the sensors are connected wirelessly propagates data (see Col. 5, lines 63-65). Accordingly, each of the sensors must be located near the monitor. Otherwise, long cable runs would be required which could interfere with a person's daily activities. In contrast, the sensors of {00003217;}

Appn. No. 10/723,444  
Amendment dated: December 6, 2004  
Response to Office Action dated September 22, 2004

the claimed invention can be located at a significant distance without being hardwired to a monitor. Accordingly, in contrast to Bui, the claimed invention provides significant flexibility for monitoring a person.

Claim 8 recites monitoring at least one environmental parameter. Bui does not disclose this step. Notably, the passage cited by the examiner, namely col. 6, lines 45-47, again pertains to physiological parameters. In contrast to a physiological parameter, which as noted relates to the biological functions of a living organism, the environmental parameter is a parameter affecting a person's environment, for example air temperature or humidity. Bui wholly fails to disclose monitoring environmental conditions, and therefore fails to anticipate claim 8.

Claim 9 recites that the environment parameter is selected from the group consisting of a carbon monoxide level, a smoke level, a temperature, an amount of water intrusion, a moisture level, a power failure, a weather condition, an earthquake, an acoustic signal, an opening of a window, a closing of a window, an opening of a door, a closing of a door, and a detected motion. The Examiner has asserted that this limitation is disclosed by Bui at col. 4, lines 33-34. However, in contrast to monitoring such parameters, the cited passage pertains to providing a visual or aural signal (in response to physiological measurements). In particular, the Bui recites "the remote controller can communicate directly with the communications unit, which will provide a signal to the patient to take a measurement. Signals from the communications unit and the ambulatory patient monitor can be visual or aural." Thus, instead of monitoring for an acoustic signal, Bui's remote controller generates an aural signal. Bui thus fails to disclose the limitations recited in claim 9.

Claim 12 recites the step of providing a processing device within a home of the person wherein the processing device provides the monitored behavioral parameters to at least one monitoring station located outside of the home. The Examiner asserts that this is disclosed in Bui in Figure 1 and at col. 6 lines 6-13 and lines 47-67. Notwithstanding that, as previously noted, Bui does not disclose that behavioral parameters are monitored, Bui does not disclose providing parameters from a processing device in a home to a monitoring station located outside the home. Specifically, at col. 6, lines 26-30, Bui states that a communications unit can download {00003217;}

Appn. No. 10/723,444  
Amendment dated: December 6, 2004  
Response to Office Action dated September 22, 2004

data to a personal computer located at the patient's home or alternative care facility. Thus, instead of sending data from a processing device in the home to a monitoring station located outside the home, Bui discloses transferring data to a computer in the home, or in the alternative, to a care facility. In consequence, Bui fails to disclose the limitation recited in claim 12.

Claim 20 recites that the system receives remote commands from the monitoring station. The Examiner has asserted that this limitation is disclosed by Bui at col. 12, lines 21-26. However, the cited passage merely states that a communications unit dials "911". The communications unit does respond to a patient monitor, but the patient monitor disclosed by Bui is not equivalent to the monitoring station defined by Applicant. Specifically, Bui's patient monitor (or sensor) is worn by the patient (col. 11, lines 28-32) and directly connected to sensors which monitor physiological parameters (col. 5, lines 63-65). In contrast, Applicant's monitoring station is remotely located from the home and monitors data generated by the server located in the patient's home (applicants' specification, ¶ 18). Accordingly, Bui's monitor is not equivalent to the claimed monitoring station, and thus Bui fails to disclose the limitations of claim 20.

Claim 21 recites that the remote commands control at least one item selected from the group consisting of an appliance, a lamp, a sensor and a medical device. The Examiner has asserted that this limitation is taught by Bui at col. 8, lines 32-39, however, this section does not pertain to controlling the items claimed by Applicant. Instead, the recited section discloses providing an ALERT to a care giver upon detecting a sensor error. Accordingly, Bui also fails to disclose the limitations of claim 21.

Claim 22 recites that the monitoring station initializes a client-phone localized emergency call by sending a command over the communication link. Bui does not disclose a monitoring station as defined by Applicants, and thus fails to disclose the limitation recited in claim 22.

Claim 23 recites that the sensor is selected from the group consisting of a microphone, a video camera, an infrared motion detector, a carbon monoxide detector, a smoke detector, a fire detector, a water intrusion detector, a power failure detector, a door contact and a window contact. Bui wholly fails to disclose any such sensors. The {00003217;}

Appln. No. 10/723,444  
Amendment dated: December 6, 2004  
Response to Office Action dated September 22, 2004

Examiner has asserted that an infrared motion detector is disclosed in col. 18 lines 22-36, but the recited passage discloses a respiratory measurement system. Bui wholly fails to disclose that such respiratory measurement system includes an infrared motion detector. Accordingly, Bui fails to anticipate claim 23.

Claims 3-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bui and further in view of Pelland. Such rejections are moot for at least two reasons. First, Bui fails to anticipate claim 1, from which claims 3-5 depend. Second, neither Bui nor Pelland provide a motive to combine the respective references; obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. MPEP § 2143.01. Neither Bui nor Pelland provides such teaching, suggestion, or motivation. Further, one of ordinary skill in the art also would not have motivation to combine the references because, as noted, Bui is directed to the art of patient care while Pelland is directed to the art of personal assistants. One looking to provide patient care would not look to the art of digital assistants for guidance; the two are very different fields of endeavor. Indeed, the two have little more in common other than the fact that both include electronic devices. Moreover, neither reference suggests the desirability of the claimed invention. (See MPEP § 2143.01). Accordingly, the two references are not properly combinable to sustain claim rejections.

Claim 26 was rejected under 35 U.S.C. 103(a) as being unpatentable over Bui and further in view of Mizokawa. Again, this rejection is moot because Bui fails to anticipate claim 15, from which claim 26 depends, and because Bui and Mizokawa are not properly combinable. Specifically, neither Bui nor Mizokawa provides a teaching, suggestion, or motivation to combine the respective references, and one skilled in the art would not be motivated to do so. Moreover, Bui is directed to health care while Mizokawas is directed to a device which monitors an insecure area. The two are completely different fields of endeavor. Furthermore, neither reference suggests the desirability of the claimed invention. Accordingly, Bui and Mizokawas also are not properly combinable to support an obviousness rejection.

Claims 2, 10, 11, 13, 14, 16, 18, 19, 24 and 25 are believe allowable at least by virtue of their dependence on allowable base claims.  
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Appn. No. 10/723,444  
Amendment dated: December 6, 2004  
Response to Office Action dated September 22, 2004

**IV. Conclusion**

It is believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicants respectfully requests reconsideration and prompt allowance of the pending claims.

Although no fee is believed due, the Commissioner is hereby authorized to charge any fees which may be due by submission of this document to Deposit Account No. 50-2884.

Respectfully submitted,

  
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